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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,151	10/16/2001	Shlomit R. Edinger	21402-168 (CURA-468)	6181

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EXAMINER
MARTINELL, JAMES

ART UNIT	PAPER NUMBER
1631	13

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/981,151	EDINGER ET AL.	
	Examiner	Art Unit	
	James Martinell	1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-49 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-49 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-4, drawn to polypeptides, classified in class 530, subclass 350.

II. Claims 5-14 and 19-21, drawn to nucleic acids, vectors, host cells, and nucleic acid molecular hybridization assays, classified in class 536, subclass 23.5 and class 435, subclasses 320.1, 252.3, 325, and 6.

III. Claims 15-18, drawn to antibodies and antibody assays, classified in class 530, subclass 387.1 and class 435, subclass 7.1.

IV. Claims 22 and 23, drawn to methods for identifying binding partners to polypeptides, classified in class 435, subclass 7.1.

V. Claim 24, drawn to methods for identifying an agent that modulates gene expression, classified in class 435, subclass 4.

VI. Claim 25, drawn to methods for modulating activity of polypeptides by using an agent of undisclosed nature, classified in class unknown, subclass unknown.

VII. Claims 26-29, 38, 41, and 48, drawn to methods of treatment using polypeptides, polypeptide pharmaceuticals, and kits, classified in class 514, subclass 12.

VIII. Claims 30-33, 39, and 42, drawn to methods of treatment using nucleic acids, nucleic acid pharmaceuticals, and kits, classified in class 514, subclass 44.

IX. Claims 34-37, 40, 43, and 49, drawn to methods of treatment using antibodies, antibody pharmaceuticals, and kits, classified in class 514, subclass 2.

X. Claims 44 and 45, drawn to diagnostic methods involving the measurement of polypeptides, classified in class 435, subclass 7.1.

XI. Claims 46 and 47, drawn to diagnostic methods involving the measurement of nucleic acids, classified in class 435, subclass 6.

The inventions are distinct, each from the other because of the following reasons. The polypeptides of Group I are materially different from, and are therefore independent and distinct from, the nucleic acids, vectors, and host cells of Group II, the antibodies of Group III, the nucleic acid pharmaceuticals of Group

VIII, and the antibody pharmaceuticals of Group IX. The polypeptides of Group I are not needed to practice the methods of any one of Groups II, III, V, VI, VIII, IX, X, or XI. The polypeptides of Group I have uses other than in the methods of Groups IV or VII (*e.g.*, in affinity chromatography). The nucleic acids, vectors, and host cells of Group II are materially different from, and are therefore independent and distinct from, the antibodies of Group III, the polypeptide pharmaceuticals of Group VII, and the antibody pharmaceuticals of Group IX. The nucleic acids, vectors, and host cells of Group II are not needed to practice the methods of any of Groups III-VII, IX, or X. The nucleic acids, vectors, and host cells of Group II have uses other than in the methods of Groups VIII and XI (*e.g.*, in affinity chromatography). The antibodies of Group III are materially different from, and are therefore independent and distinct from, the polypeptide pharmaceuticals of Group VII and the nucleic acid pharmaceuticals of Group VIII. The antibodies of Group III are not needed to practice the methods of any of Groups IV-VIII, X, or XI. The antibodies of Group III have uses other than in the methods of Group IX (*e.g.*, in affinity chromatography). The methods of each of Groups IV-XI may be practiced independently of one another. The polypeptide pharmaceuticals and kits of Group VII are not needed to practice the methods of any one of Groups IV-VI or VIII-XI. The nucleic acid pharmaceuticals and kits of Group VIII are not needed to practice the methods of any one of Groups IV-VII or IX-XI. The antibody pharmaceuticals and kits of Group IX are not needed to practice the methods of any one of Groups IV-VIII, X, or XI.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

To search any two groups as outlined above would create an undue burden for the U.S. PTO because the searches of the non-patent literature are not only non-overlapping to any appreciable extent, but are also divergent in nature.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Martinell whose telephone number is (703) 308-0296. The fax phone number for Examiner Martinell's desktop workstation is (703) 746-5162. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be e-mailed to james.martinell@uspto.gov. Since e-mail communications may not be secure, it is suggested that information in such requests be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (703) 305-4028. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

James Martinell, Ph.D.
Primary Examiner
Art Unit 1631